

MOTION NO. (72/11) KA 09-01374. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V SAMUEL T. TOLIVER, DEFENDANT-APPELLANT. -- Motion for writ of
error coram nobis denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, WINSLOW,
AND BANNISTER, JJ. (Filed June 11, 2021.)

MOTION NO. (252/12) KA 10-02161. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V ANDRE L. SCOTT, ALSO KNOWN AS ANDRE SCOTT,
DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied.
PRESENT: WHALEN, P.J., CENTRA, SMITH, PERADOTTO, AND TROUTMAN, JJ. (Filed
June 11, 2021.)

MOTION NO. (706/17) KA 13-01187. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V ERIC A. MAGIN, DEFENDANT-APPELLANT. -- Motion for writ of
error coram nobis denied. PRESENT: SMITH, J.P., LINDLEY, NEMOYER, CURRAN,
AND DEJOSEPH, JJ. (Filed June 11, 2021.)

MOTION NO. (655/20) CA 19-01403. -- JAMES HEALY, PLAINTIFF-RESPONDENT, V
EST DOWNTOWN, LLC, C/O FIRST AMHERST DEVELOPMENT GROUP,
DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for leave to appeal to the
Court of Appeals denied. PRESENT: PERADOTTO, J.P., LINDLEY, CURRAN,
BANNISTER, AND DEJOSEPH, JJ. (Filed June 11, 2021.)

MOTION NO. (737/20) KA 19-01464. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V LEROY K. HOLLEY, DEFENDANT-APPELLANT. -- Motion for writ of

error coram nobis denied. PRESENT: SMITH, J.P., CARNI, CURRAN, TROUTMAN, AND WINSLOW, JJ. (Filed June 11, 2021.)

MOTION NO. (919/20) CA 19-01569. -- IN THE MATTER OF ARBITRATION BETWEEN NIAGARA FRONTIER TRANSPORTATION AUTHORITY, PETITIONER-APPELLANT, AND NFTA POLICE BENEVOLENT ASSOCIATION, RESPONDENT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, WINSLOW, BANNISTER, AND DEJOSEPH, JJ. (Filed June 11, 2021.)

MOTION NO. (942/20) CA 20-00170. -- JACLYN SAX, PLAINTIFF-APPELLANT, V WOMEN AND CHILDREN'S HOSPITAL OF BUFFALO AND KALEIDA HEALTH, DOING BUSINESS AS WOMEN AND CHILDREN'S HOSPITAL OF BUFFALO, DEFENDANTS-RESPONDENTS. -- Motion for reargument denied. PRESENT: WHALEN, P.J., CENTRA, NEMOYER, WINSLOW, AND BANNISTER, JJ. (Filed June 11, 2021.)

MOTION NO. (1031/20) CA 19-01276. -- IN THE MATTER OF THE APPLICATION FOR DISCHARGE OF CHARLES B. FROM CENTRAL NEW YORK PSYCHIATRIC CENTER, PURSUANT TO MENTAL HYGIENE LAW SECTION 10.09, PETITIONER-APPELLANT, V STATE OF NEW YORK, RESPONDENT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, NEMOYER, TROUTMAN, AND WINSLOW, JJ. (Filed June 11, 2021.)

MOTION NO. (201/21) CA 20-00669. -- IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE FINAL ACCOUNT OF JPMORGAN CHASE BANK N.A. (SUCCESSOR BY CONVERSION TO JPMORGAN CHASE BANK, SUCCESSOR BY MERGER TO THE CHASE MANHATTAN BANK, SUCCESSOR BY MERGER TO THE CHASE MANHATTAN BANK, N.A., SUCCESSOR BY MERGER TO CHASE LINCOLN FIRST BANK, N.A., SUCCESSOR IN INTEREST TO LINCOLN FIRST BANK, N.A.), AS TRUSTEE OF THE TRUST UNDER THE LAST WILL AND TESTAMENT OF LUCY GAIR GILL, DECEASED, FOR THE BENEFIT OF MARY GILL ROBY, ET AL., PETITIONER-RESPONDENT. WILLIAM S. ROBY, III, OBJECTANT-APPELLANT. -- Motion for reargument denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, AND TROUTMAN, JJ. (Filed June 11, 2021.)

KA 21-00427. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRIAN HUNT, DEFENDANT-APPELLANT. -- Motion for reconsideration dismissed as untimely. PRESENT: WHALEN, P.J., SMITH, NEMOYER, WINSLOW, AND BANNISTER, JJ. (Filed June 11, 2021.)

KA 19-00668. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CODEY KISTNER, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Erie County Court, Susan Eagan, J. - Burglary, 3rd Degree). PRESENT: CARNI, J.P., LINDLEY, CURRAN, BANNISTER, AND DEJOSEPH, JJ. (Filed June 11, 2021.)

KA 17-01118. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTHONY T. SMITH, DEFENDANT-APPELLANT. -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant was convicted upon a guilty plea of attempted robbery in the second degree (Penal Law §§ 110.00, 160.10 [1]) and was sentenced to a determinate term of imprisonment of three years and five years of postrelease supervision. Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38 [4th Dept 1979]). However, a nonfrivolous issue exists as to whether defendant's waiver of the right to appeal was valid. Therefore, we relieve counsel of his assignment and assign new counsel to brief this issue, as well as any other issues that counsel's review of the record may disclose. (Appeal from Judgment of Monroe County Court, Douglas A. Randall, J. - Attempted Robbery, 2nd Degree). PRESENT: CARNI, J.P., LINDLEY, CURRAN, BANNISTER, AND DEJOSEPH, JJ. (Filed June 11, 2021.)